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09/735,835	12/13/2000	Vernon Keith Boland	8598	5833
26890	7590	04/21/2010	EXAMINER	
JAMES M. STOVER			BORISOV, IGOR N	
TERADATA CORPORATION			ART UNIT	PAPER NUMBER
2835 MIAMI VILLAGE DRIVE			3628	
MIAMISBURG, OH 45342			MAIL DATE	
			04/21/2010	
			DELIVERY MODE	
			PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* VERNON KEITH BOLAND, KATHY DEAN,  
RONALD A. RUSH JR., ROBERT N. JOSEPHSON II  
and DENNIS A. PARKER

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Appeal 2009-011897  
Application 09/735,835  
Technology Center 3600

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Decided: April 20, 2010

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Before LINDA E. HORNER, ANTON W. FETTING  
and STEVEN D.A. McCARTHY, *Administrative Patent Judges*.

McCARTHY, *Administrative Patent Judge*.

DECISION ON APPEAL

- 1        The Appellants appeal under 35 U.S.C. § 134 from the Examiner's
- 2        decision rejecting claims 1-5, 7-10, 13, 15-18 and 20-24 under 35 U.S.C.
- 3        § 102(e) as being anticipated by Gardenswartz (US 6,298,330 B1, issued
- 4        Oct. 2, 2001). We have jurisdiction under 35 U.S.C. § 6(b).

1           We DISMISS the appeal as to claims 1-5, 7-10, 13, 15-18 and 20-24.

2           The Examiner finally rejected claims 1-5, 7-10, 13, 15-18 and 20-24  
3 in an Office Action mailed May 19, 2005. The Appellants appealed from  
4 the final rejection of these claims September 23, 2005. The appeal was  
5 docketed as Appeal 2008-2634 on April 4, 2008. On September 17, 2008,  
6 this panel remanded the appeal to the Examiner.

7           The Remand Order stated that, “if the Examiner chooses to maintain  
8 the rejection of claims 1-5, 7-10, 13, 15-18 and 20-24, the Examiner shall  
9 prepare a Supplemental Examiner’s Answer which clarifies the statutory  
10 basis for the rejection of the appealed claims and provides an opportunity for  
11 the Appellants to respond.” (Remand Order at 5). The Remand Order  
12 specifically stated that the remand was “made for further consideration of a  
13 rejection. Accordingly, 37 C.F.R. § 41.50(a)(2) applies if a supplemental  
14 examiner’s answer is written in response to this remand by the Board.”  
15 (Remand Order at 5). The Examiner mailed a Supplemental Examiner’s  
16 Answer on January 12, 2009.

17           Pursuant to 37 C.F.R. § 41.50(a)(2) (July 1, 2007), the Appellants  
18 were required to respond to the Supplemental Examiner’s Answer within  
19 two months in either of two ways: 1) reopen prosecution, *see* 37 CFR  
20 § 41.50(a)(2)(i); or 2) request that the appeal be maintained by filing a reply  
21 brief as set forth in 37 CFR 41.41, *see* 37 CFR § 41.50(a)(2)(ii), “to avoid  
22 sua sponte dismissal of the appeal as to the claims subject to the rejection for  
23 which the Board has remanded the proceeding.” According to the record  
24 before us, the Appellants do not appear to have exercised either option.

## DECISION

2 We DISMISS the appeal as to the claims subject to the rejection for  
3 which the Board has remanded the proceeding, namely, claims 1-5, 7-10, 13,  
4 15-18 and 20-24. This dismissal includes all claims on appeal.

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**DISMISSED**

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